



# U.S. DEPARTMENT of STATE

## Tonga

### Country Reports on Human Rights Practices - [2004](#)

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The Kingdom of Tonga is a constitutional monarchy stretching over 170 islands in the southern Pacific Ocean. Political life is dominated by the King, the nobility, and a few prominent commoners. The unicameral legislative assembly consists of the Cabinet; 9 nobles elected by the 33 hereditary peers; and 9 representatives elected by the general population in periodic free and fair elections. The Constitution requires that parliamentary elections be held every 3 years. The most recent election was held in 2002; the next parliamentary election is scheduled for March 2005. The judiciary generally is independent; however, there were allegations that it occasionally was subject to royal influence.

The security apparatus consists of the Tonga Defense Services (TDS) and a police force. The civilian authorities maintained effective control of the security forces. The Minister of Defense controls the 430-man TDS force; the Minister of Police and Prisons directs the police force. There were no reports that members of the police committed human rights abuses.

The country had a population of approximately 100,100 and a per capita gross domestic product of approximately \$1,660. The economy was based primarily on the cultivation of tropical and semitropical crops. The rate of economic growth was approximately 2.8 percent. Wages and benefits largely kept pace with inflation. The demand for imported goods and products led to a substantial trade deficit, which was offset largely by remittances from overseas citizens, foreign aid, and, to a lesser degree, tourism.

The Government's human rights record remained poor. Citizens do not have the right to change their government. At times, the authorities infringed on freedom of speech and press by confiscating newspapers. On October 8, a Tongan court determined that such actions were unconstitutional and ordered restrictions removed; the Government promptly took steps to comply. In addition, during the year, a defamation suit brought by a government minister in 2003 against a newspaper over a story alleging perjury was dismissed. Some women suffered from domestic violence; women also faced discrimination as well as limited employment and economic opportunities. In practice, the right to form labor unions was restricted by the lack of implementing regulations.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices; however, on June 18, two prison escapees claimed they were tortured for prison infractions. One maintained he was stripped to his underwear, chained to a concrete deck, and exposed to the elements for 2 days. The other alleged he was also stripped and then chained by his wrists to outdoor cell bars above his head in "a mosquito infested area" for 2 days. The Government did not challenge the claims, and no action against officials responsible was reported.

Prison conditions were Spartan but reflected local living standards. There were separate facilities for pretrial detainees and convicted prisoners, men and women, and adults and juveniles. Church representatives and family members were permitted to visit prisoners. No nongovernmental organizations (NGOs) attempted to monitor prison conditions, and the permissibility of such visits did not arise.

#### d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these prohibitions. The Constitution provides for the right to judicial determination of the legality of arrest, and this was observed in practice. There are no statutory limits on the length of time a suspect may be held prior to being charged. There were no reports of preventive detention or other lengthy pretrial detention. The law permits unlimited access by counsel and family members to detained persons; however, there reportedly were instances in which detainees were denied legal counsel.

The police force is composed of approximately 400 officers under the control of the Minister of Police and Prisons. Incidents of bribe-taking and other forms of corruption reportedly occurred.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice. The judiciary generally provided citizens with a fair and efficient judicial process. The judiciary, whose highest-ranking judges historically have been foreign nationals, was generally independent; however, on occasion it was subject to royal influence. Judges hold office "during good behavior" and otherwise cannot be dismissed during their terms.

The court system consists of the Supreme Court (which has original jurisdiction over all major cases), the Police Magistrates' Court, a general court, a court-martial for the TDS, a court tribunal for the police force, and a court of review for the Inland Revenue Department. The Court of Appeal is the highest court. The King's Privy Council presides over cases relating to disputes over titles of nobility and estate boundaries. According to the Constitution, the King, with the consent of the Privy Council, has the right to commute death sentences in cases of murder or treason, the only crimes for which capital punishment can be imposed. Under the same statutes, the King may also commute sentences and free prisoners.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. A court may not summon anyone without providing a written indictment stating the charges. Defendants are presumed innocent, are entitled to counsel, have a right of appeal, and are entitled to bail; lawyers have free access to defendants.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the Government generally respected these prohibitions in practice.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press; however, at times the authorities infringed on these rights.

There were eight newspapers and newsmagazines in print: three weeklies, one of which was government owned; three monthlies; one bimonthly; and one quarterly. There were two privately owned television stations and one government-owned station. The government-owned radio station broadcast on AM and FM frequencies. There were three privately owned radio stations. Government-controlled media outlets were criticized for exercising self-censorship.

On October 8, the Chief Justice ruled that the November 2003 Newspaper Act and Media Operators Act were invalid and unconstitutional. This followed the May 2003 ruling that a government ban on the Taimi 'o Tonga was illegal. These attempts to control the press had spurred strong public opposition. Following the October 8 judgment, the Government promptly took measures to comply with the judgment, and on October 15, the Taimi 'o Tonga resumed distribution.

The Human Rights and Democracy Movement in Tonga alleged the Government regularly censors foreign-origin news reports about the country.

While there was little editorializing in the government-owned media, opposition opinion in the form of letters to the editor, along with government statements and letters, appeared regularly. From time to time, the national media carried comments critical of government practices and policies, including some by prominent citizens.

The law allows suits by government officials and other individuals against media outlets that publish allegedly defamatory remarks. A former Minister of Justice brought a suit against the Tonga Star newspaper in 2003 for defamation of character. In November, the former Minister lost both his suit and his attempt to claim legal fees from the newspaper.

The Government did not restrict academic freedom or Internet access.

#### b. Freedom of Peaceful Assembly and Association

The law provides for the freedoms of assembly and association, and the Government generally respected these rights in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. However, the Constitution states that Sunday, the Sabbath, is to be "kept holy" and that no business can be conducted "except according to law." Although an exception is made for hotels and resorts that are part of the tourism industry, the Sabbath day business prohibition was enforced strictly for all businesses, regardless of the business owners' religion. At year's end, the Legislature amended the law to expand the number of businesses that could operate on Sunday.

Tonga Broadcasting Commission (TBC) guidelines require that religious programming on Radio Tonga be confined "within the limits of the mainstream Christian tradition." The TBC did not allow members of the Baha'i Faith to discuss the tenets of their religion or to refer to the founder, Baha'ullah, by name. Similarly, the TBC did not allow the Church of Jesus Christ of Latter-day Saints (Mormons) to discuss its founder, Joseph Smith, or the Book of Mormon by name. However, members of the Baha'i Faith used a privately owned radio station for program activities and the announcement of functions, and Mormons and members of some other faiths were permitted to use Radio Tonga for the announcement of church activities and functions. A government-owned newspaper occasionally carried news articles about Baha'i activities or events, as well as those of other faiths.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respected them in practice. Citizens were free to travel within the country and abroad.

The Constitution and law do not prohibit forced exile, but the Government did not employ it in practice.

The Government has not established a system for providing protection to refugees. No person was known to have applied for refugee status. The issue of the provision of temporary protection has never arisen.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

Citizens do not have the ability to change their leaders or the system of government. The King and 33 hereditary nobles dominated political life. They asserted authority largely through control of substantial landholdings and their dominant numbers in the legislative assembly (Parliament). While the Constitution allows the monarch broad powers, many of which do not require the legislative branch's endorsement, at times the King permitted the legislative system to operate without his guidance. The King appoints the Prime Minister and appoints and presides over the Privy Council (called the Cabinet when the King is not presiding), which makes major policy decisions. The Cabinet is composed of nine ministers and two governors; it included both nobles and commoners, all serving at the King's pleasure. The King's son, Prince 'Ulukalala Lavaka Ata, served as Prime Minister. During most of the year, the Prince also held five other ministerial portfolios, including defense and foreign affairs; however, he gave up the latter two portfolios in September.

The unicameral legislative assembly consists of the Cabinet, nine nobles elected by their peers, and nine representatives elected by the general population. The King appoints the Speaker from among the representatives of the nobles. Cabinet members and nobles usually voted as a bloc.

In September, seven of the representatives elected by the general population submitted proposals for political reform to the legislative assembly. One proposal called for a referendum in 2005 that would amend the Constitution to give citizens the right to elect all members of Parliament, and another would give the King the power to appoint the Prime Minister and Cabinet ministers from among the elected Parliamentarians. On November 11, the Prime Minister announced that four new ministers would be appointed after the March 2005 election--two selected from elected nobility and two from elected representatives of the people. This would mark the first time for elected representatives of the people to serve in the Cabinet.

Only citizens 21 years or older and resident in the country may vote. Parliamentary elections in 2002, deemed to be free and fair, resulted in a strong showing for pro-democracy candidates on the main island of Tongatapu. The royalist political group Kotoa was a counterweight to the pro-democracy movement. The next parliamentary elections were scheduled for March 2005.

In 2002, the Government launched an economic and public sector reform program, led by a Cabinet Reform Committee composed of five teams. The teams included members of the Chamber of Commerce and provided the only opportunity for the general population to participate in the reform program. Late in 2003, the Government began implementing the program, and in June it began a survey of work performed by higher-paid public servants.

No woman has ever served as a government minister. During the year, there were no female Members of Parliament. A woman may become queen, but the Constitution forbids a woman to inherit other noble titles or become a chief.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no legal barriers to the formation of domestic human rights NGOs. Some domestic NGOs dealt with human rights issues, but none undertook investigations of alleged violations. During the year, there were no restrictions on operations by international human rights groups and no known requests for investigations.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

Social, cultural, and economic facilities were available to all citizens regardless of race or religion, but members of the hereditary nobility had substantial advantages, including control over most land and a generally privileged status. It was possible for ordinary citizens to hold cabinet positions in government and to accumulate great wealth and status in the private sector.

##### Women

Societal violence against women seldom was publicized, but it was a growing problem. Incidents of domestic violence generally were addressed in traditional ways within families or by village elders. Such abuse seldom was reported to the police. Domestic violence can be prosecuted under laws against physical assault. Abused wives sometimes returned to their families if mediation failed. There were shelters, most church affiliated, for abused and troubled women, and the Free Wesleyan Church operated a hotline for women in trouble.

Rape is punishable by imprisonment for a term of up to 15 years. The law does not recognize spousal rape and states that carnal intercourse by a man and his wife shall not under any circumstance be deemed rape.

Prostitution per se is not illegal, but activities such as soliciting in a public place, procuring, operating a brothel, and trading in women are criminal offenses. Sexual harassment is not a crime, but physical sexual assault could be prosecuted as indecent assault.

Women held several significant government posts, including Secretary to the Cabinet in the Prime Minister's Office and Secretary of Foreign Affairs. Women also headed the Office of Crown Law and the Government Central Planning Office. The majority of commissioned officers in the police force were women. For a woman to rise to a position of leadership, she usually needed the support of the nobility. The King's mother reigned for 46 years, and a royal princess was among the country's most prominent businesspersons. Some female commoners held senior leadership positions in business.

Inheritance laws, especially those concerned with land, discriminate against women. Women can lease land but not own it. Under the inheritance laws, the claim to a father's estate by a male child born out of wedlock takes precedence over the claim of the deceased's widow or daughter.

The Center for Women and Children, an NGO under the auspices of the Catholic Church, focused on domestic abuse and improving the economic and social conditions of women and also offered counseling to women in crisis.

##### Children

The Government is committed to children's human rights and welfare, and it provides some funding for children's welfare. Education is compulsory from ages 6 to 14. Education was available for all children through Form 6 (high school). Almost all children attended school.

The Government provided free basic medical care to children. Child abuse was rare, and the extended family generally participated in child rearing.

##### Trafficking in Persons

While the law does not specifically address trafficking in persons, violators could be prosecuted under antislavery statutes. There were no reports that persons were trafficked to, from, or within the country.

##### Persons with Disabilities

There are no mandated provisions for services for persons with disabilities. There were no reported complaints of discrimination in employment, education, or provision of other government services. The education of children with special needs has been a longstanding priority of the Queen.

## National/Racial/Ethnic Minorities

According to the Ministry of Labor, ownership and operation of food retail stores in the country has been legally restricted to citizens since the early 1980s. However, the retail sector in many towns has become increasingly dominated by foreigners, particularly Chinese nationals. During the year, the Immigration Department of the Ministry of Foreign Affairs attempted to enforce the restrictions in an effort to curb growing illegal immigration. Although some foreigners left as a result of the policy, others moved to nonrestricted sectors of the economy.

## Section 6 Worker Rights

## a. The Right of Association

Workers gained the right to form unions under the 1963 Trade Union Act, but regulations on the formation of unions were never promulgated, and there were no unions. The Friendly Islands Teachers Association and the Tonga Nurses Association were incorporated under the Incorporated Societies Act; however, they had no formal bargaining rights under the act.

The act provides workers with the right to strike; however, implementing regulations never have been formulated. There were no reports of strikes during the year.

## b. The Right to Organize and Bargain Collectively

Collective bargaining is permitted by law, but there was no record of it being utilized during the year.

Labor laws apply in all sectors of the economy, including the two small export processing zones.

## c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

## d. Status of Child Labor Practices and Minimum Age for Employment

Although there is no legislation prohibiting child labor, the practice did not exist in the wage economy.

## e. Acceptable Conditions of Work

There is no minimum wage law, although there are government guidelines for wage levels. Labor laws and regulations, enforced by the Ministry of Labor, Commerce, and Industries, limited the workweek to 40 hours. The Ministry of Labor enforced laws and regulations in the wage sector of the economy, particularly on the main island of Tongatapu. Enforcement in the agricultural sector and on the outer islands was limited.

Few industries exposed workers to significant danger, and industrial accidents were rare. The Government seldom addressed industrial safety standards, including the right of workers to remove themselves from dangerous work situations.